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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,570	11/12/2003	Michael A. Masini	MHM-00307/29	6665

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EXAMINER

PATEL, TARLA R

ART UNIT	PAPER NUMBER
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3772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/706,570

Applicant(s)

MASINI, MICHAEL A.

Examiner

Tarla R. Patel

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 12, 15-23, 25-28, 43 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 15-23, 25-28, 43-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11,12,15-17, 20-23, and 26-28 are rejected under 35

U.S.C. 102(b) as being anticipated by Etheredge (5,333,753).

Etheredge discloses a packaging for a bandage (32) having a patient contacting surface with a peripheral edge (outer edges of device in see fig 3), the patient-contacting surface (36), including an absorbent layer (34) completely surrounded by an adhesive that extends to the peripheral edge in all directions (column 2 lines 46-51) comprising first and second removable sheets (12,22), both extending beyond the peripheral edge of the bandage and peripherally joined (column 3 lines 23-28) so that the bandage is contained between the removable sheets until use (see fig 2) and one of sheets is in direct contact with the entire adhesive (42) on the patient-contacting surface until that sheet is removed.

With respect to claim 12 and 17, Etheredge discloses the first and second removable sheets are made of paper (column 3 lines 22-23).

With respect to claim 15 and 20, Etheredge discloses the first and second removable sheets include a tab (14) to assist in removal.

With respect to claim 16, Etheredge discloses a bandage (32) having a patient contacting front surface (side facing the adhesive) with an adhesive (36), a back surface and peripheral edge (see fig 3), and a packaging portion including first and second removable sheets (12,22), both extending beyond the peripheral edge of the bandage, and wherein the first and second removable sheets are peripherally joined (column 3 lines 23-28) so that the bandage is contained between the removable sheets until use (see fig 2).

With respect to claim 21, Etheredge discloses wherein the first and second removable sheets are peripherally joined (column 3 lines 23-28) with an adhesive.

With respect to claim 22, Etheredge discloses the bandage portion comprises a flexible backing layer (36) and an absorbent layer bonded (by adhesive) to the flexible backing layer (it is flexible since it wraps around the finger, see figs 4-6).

With respect to claim 23, Etheredge discloses the flexible backing layer extends beyond the absorbent layer (see fig 3).

With respect to claim 26, Etheredge discloses the adhesive is disposed on flexible backing layer and surrounds the absorbent layer to form an island-type bandage portion (see fig 3).

With respect to claim 27, Etheredge discloses a method of applying a bandage, comprising the steps of providing the bandage construction as described above with respect to claim 16. Etheredge further teaches the steps of removing one of the first and second removable sheets to expose the entire patient-contacting front surfaces; applying the bandage portion to a recipient using the adhesive and removing the other removable sheet from the back surface of the bandage portion (see fig 4-6, column 2 lines 60-68 and column 3 lines 1-3).

With respect to claim 28, Etheredge discloses a bandage construction consisting of a bandage (32) portion with a patient-contacting surface including an absorbent layer (34) and an adhesive (36) and two removable packaging sheets (12,22), one on either side of the bandage portion (12), such that one of the sheets acts as a release layer to expose the adhesive for use.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Etheredge (753) in view of Bush (2,897,961).

Etheredge substantially disclose the invention, please rejection above; however, Etheredge does not discloses that the bandage has a flexible backing layer that is fluid-impermeable.

However Bush teaches a bandage having a flexible backing layer that is fluid-impermeable (column 5 lines 28-34). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the Etheredge's bandage having the flexible backing layer as taught by Bush to avoid direct contact with fluid to the wound.

5. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Etheredge (753) in view of Newman (5,586,971).

Etheredge substantially disclose the invention, please rejection above; however, Etheredge does not discloses that the bandage has two ends and

a mid section and wherein bandage portion is tapered such that the mid section is wider than one or both of the ends.

However Newman teaches a bandage having two ends and a mid section and wherein bandage portion is tapered such that the mid section is wider than one or both of the ends (see fig 2 element 12). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the Etheredge's bandage have the shape of two ends and a mid section and bandage portion is tapered such that the mid section is wider than one or both of the ends, as taught by Newman to be able to place the bandage over the site of the wound.

Response to Arguments

6. Applicant's arguments with respect to claims 16 and 28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tarla R. Patel whose telephone number is 571-272-3143. The examiner can normally be reached on M-F 6-3.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TP


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4/2/07